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233 North Barbara Street
Mount Joy, Pennsylvania 17552

December 2, 2003

Troy Brady
Surface Transportation Board
Section of Environmental Analysis
Case Control Unit
1925 K Street, NW
Washington, DC 20423-0001

Dear Mr. Brady:

SUBJECT: CONSOLIDATED RAIL CORPORATION
ABANDONMENT EXEMPTION –
Former Enola Branch of the Low Grade Line, Pennsylvania Railroad
LANCASTER AND CHESTER COUNTIES, PENNSYLVANIA
Docket No. AB-167 (Sub-No. 1095X)

Thank you for conducting the public participation meetings in Quarryville, Lancaster County Pennsylvania, on November 19, 2003 as part of STB responsibilities pursuant to the National Historic Preservation Act's Section 106 process. I hope you found your time here enlightening and enjoyable.

I am proud to have been part of broad-based community efforts – extending over 10 years - that culminated in bringing you and your colleagues to Lancaster County to hear testimony and to see the Low Grade Line itself as a unique historic and cultural landscape of national significance.

As a result of this interaction, the representatives of Lancaster County's conservation and preservation community are cautiously optimistic as we look to the future. A new spirit of partnership and cooperation is evident here, brought about largely through the leadership of the Lancaster County Commissioners-elect and with technical and financial support offered by the Pennsylvania Department of Conservation and Natural Resources.

As a result, there are good prospects that the larger Lancaster community, in part through the STB public participation process, can now better focus on collaborative public and private efforts that may result in creation of a hiking and biking trail that will provide a recreational and educational experience that can be among the finest anywhere.

However, since that hoped-for outcome is not certain at this time, and since the completion of the public comment period for the Section 106 process is at hand, I would like to offer the following comments on the draft Memorandum of Agreement. After years of direct involvement in this case, it is my sincere hope that if and when the property is conveyed to the individual townships (under terms of the proposed Commonwealth-sanctioned Stipulation Agreement) that the Section 106 process can be engaged now to bring about a disposition plan for the property that is more preservation focused than is likely to occur, while also addressing issues of public safety.

COMMENTS/QUESTIONS:

1) Additional Mitigation Measures Needed:

Many groups, organizations, agencies or individuals involved in this case have advocated a preservation approach as part of Norfolk Southern's abandonment petitions/applications. Among all of those advocates, no one has ever objected to, or rejected out of hand the removal of those historic stone arch bridges that are recognized as traffic hazards or impediments. Specifically, I refer to the Rt. 222 bridge north of Quarryville, and the bridge/underpass at Rt. 324 in Martic Township. There may be others in this category and condition.

Those historic bridges can be removed and, if a trail is planned for the sites, a new suitably-designed and safely-positioned overhead walkway can be installed in place of the stone arches.

That being said, what is necessary and desirable now, as part of the MOA process, is for STB to be more proactive in advancing suitable language in the draft MOA that will result in a more appropriate preservation-focused outcome as a result of potential implementation of an MOA. There is ample precedence for ways to draft, execute and implement an MOA that can accomplish this kind of outcome that is not overly expensive, time-consuming, nor will result in a compromise of public safety.

STB can and should work with the ACHP, the SHPO and other consulting parties in the MOA and create a framework that both appropriately documents the resources to be removed, places MOA conditions on salvage such as directing on-site re-use of bridge elements and features. Such MOA-prescribed measures can also include binding the parties to create an on-site commemorative interpretation of the resource, as defined by the removed features that for a century have occupied those locations.

Finally, if a trail overpass is ultimately constructed, the MOA should state that the new design must be consistent with Secretary of the Interior Standards for new construction of buildings or structures in or around sites of national historic significance.

These kinds of measures are actually another form of documentation, and such planning and potential outcomes have been accomplished in literally thousands of cases across the country.

Otherwise, if STB sanctions abandonment of the line under terms of the current MOA, you will have precluded your responsibility under Section 800.11(e) of 36 CFR, which outlines the documentation that must be made available to the public when an agency determines that an action will have an adverse effect on historic properties.

In your October 20, 2003 notice on this point, you state that: "SEA believes that all of the required documentation already has been prepared and made publicly available."

It appears to me that you are confusing "documentation" in this reference with archival documentation of the resource and its various elements with "documentation," or in other words, a written explanation of the concerted efforts undertaken by the agency (STB-SEA) and the other signers of the proposed MOA to illustrate or present the process by which paragraph 5 of the referenced regulation applies:

"(5) An explanation of why the criteria of adverse effect were found applicable or inapplicable, including any conditions or future actions to avoid, minimize or mitigate adverse effects."

The critical words here seem to be "future actions."

The kinds of measures suggested here are routinely used to mitigate the adverse effects (salvage, on-site commemorative designs, etc. as mentioned above). These are clearly not the same as the more restrictive measures STB often cites in response to these kinds of suggestions: outright mandates on the general use of the property after abandonment, or the placement of restrictive covenants.

2) EXPANSION OF CONCURRING PARTIES:

At the November 19 meeting, a speaker suggested that Lancaster County be included as a Concurring Party in the MOA. This is a sound suggestion since, if the MOA is executed and the municipalities accept ownership of their respective portions of the subject property, Lancaster County would play a key role in land use planning on behalf of five of the seven Lancaster County Townships through whose jurisdictions the line passes. Provisions to address historic resources will be included in reviews that Lancaster County would accomplish.

3) POST REVIEW DISCOVERY: The draft MOA states:

"In the event that the professional historian identifies a potential for unanticipated effects on archeological sites during the implementation of this Memorandum of Agreement, NS shall notify the Board's FPO. The Board's FPO shall then consult

with the SHPO to determine whether additional mitigation measures are necessary. If the Board's FPO and the SHPO determine that additional mitigation measures are required, all signatories shall consult to devise appropriate mitigation measures and amend the Memorandum of Agreement, pursuant to Part IV of this Memorandum of Agreement."

I strongly recommend that the full range of historic and cultural resources, in addition to just archeological resources, be acknowledged in this same section and that the MOA account for such post review discoveries.

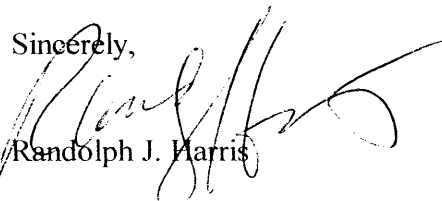
4) PUBLIC COMMENT ON FINAL MOA: The draft MOA states:

"The Board's FPO, the ACHP, and the SHPO shall have 30 days to review and comment on the draft document. At the end of the 30 day period, NS shall prepare a final version of the document, taking into consideration any comments received, and submit the final document to the Board, the ACHP, and the SHPO. NS shall also submit two (2) additional copies of the final document to the SHPO to be archived at the SHPO's office."

I recommend that this final document, which may include information not now available, should be the subject of a limited period of review and comment by the MOA Concurring Parties, at a minimum, and the public at large via the STB website.

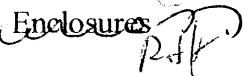
Thank you for your efforts on this case and for consideration of my comments.

Sincerely,



Randolph J. Harris

Enclosures



CC: Victoria Rutson, Chief, Section of Environmental Analysis, STB
Jean Cutler, PA SHPO
Hon. Joseph Pitts, United States Congress